

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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01-22-07
03:28 PM

Order Instituting Rulemaking to Promote
Policy and Program Coordination and
Integration in Electric Utility Resource
Planning.

Rulemaking 04-04-003
(Filed April 1, 2004)

**RESPONSE OF THE CALIFORNIA CLEAN DG COALITION
TO PETITION FOR MODIFICATION OF D.04-12-048
OF THE ENERGY PRODUCERS AND USERS COALITION**

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January 22, 2007

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Pursuant to Rule 16.4 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission or CPUC), the California Clean DG Coalition (CCDC) files this Response to the Petition for Modification of D.04-12-048 of the Energy Producers and Users Coalition (EPUC) (Petition). CCDC is an ad hoc group interested in promoting the ability of distributed generation (DG) system manufacturers, distributors, marketers and investors, and electric customers to deploy DG.¹ DG is also referred to as “customer generation.”

With the Petition, EPUC seeks modification of D.04-12-048 and all other procurement decisions purporting to implement certain nonbypassable charge (NBC) policies adopted in D.04-12-048 and applicable to customer generation departing load (CGDL).² Specifically, EPUC asks the Commission to (1) confirm the investor owned utilities’ (IOUs) obligation to forecast CGDL when procuring power, and (2) rule that CGDL is not subject to an NBC resulting from the IOUs’ ongoing procurement activities in the normal course of business (a Procurement NBC).

CCDC appreciates the work the Commission has undertaken to date to encourage and support DG. In general, the state has long supported DG, and with good reason. The November

¹ CCDC is currently comprised of Capstone Turbine Corporation, Caterpillar, Inc., Chevron Energy Solutions Company, Cummins, Inc., Cummins West, Inc., DE Solutions, Inc., Hawthorne Power Systems, Holt of California, Johnson Power Systems, next>edge, Inc., Northern Power Systems, Peterson Power Systems, Quinn Power Systems, RealEnergy, LLC, Simmax Energy, Solar Turbines Incorporated, and Tecogen, Inc.

² The other decisions include D.03-12-059 (SCE acquisition of Mountainview); D.04-06-011 (approving SDG&E’s Reliability RFP); D.06-06-035 (approving Joint Settlement Agreement, as modified, for PG&E’s acquisition of Contra Costa 8); D.06-07-029 (approving Procurement NBC for net capacity costs associated with power purchase agreements for PG&E and SCE) and D.06-11-048 (approving PG&E Long Term Request for Offer Results).

2005 Integrated Energy Report (2005 IEPR) prepared by the California Energy Commission (CEC) recognizes the value of DG, emphasizing combined heat and power technology:

An important alternative to building large new power plants is distributed generation, which is electricity produced on site or close to load centers that is also connected to a utility's distribution system. The most efficient and cost-effective form of distributed generation is cogeneration or combined heat and power. By recycling waste heat, these systems are much more efficient than systems that separately serve thermal and electric loads Current state policy must change for California to tap into this potential generation source and retain the existing pool of combined heat and power facilities so critical to reliable operation of the state grid.³

In Energy Action Plan II (EAP II), the CEC and CPUC identify as a key action for ensuring electricity adequacy, reliability and adequate infrastructure the development of tariffs and removal of barriers "to encourage the development of environmentally-sound combined heat and power resources and distributed generation projects."⁴

EPUC's Petition is absolutely consistent with state policy supporting DG and CCDC supports the Petition. EPUC is correct that "[a] reasonable course of action under the circumstances would be to eliminate the Procurement NBC entirely." The Procurement NBC is not related to electric industry restructuring or the energy crisis. Rather, the Procurement NBC is a mechanism the Commission has authorized that in effect absolves the IOUs from imprudent procurement activities. With regard to DG, the specter of a Procurement NBC operates as yet another barrier in an already difficult market, contrary to longstanding state, CPUC and CEC policy.

Historically, the Commission has not authorized an NBC in connection with IOU procurement in the normal course of business. The IOUs are sophisticated, experienced electric service providers that are able to forecast changes in their customer load and make appropriate plans to serve that load and have for decades been responsible for prudent procurement planning. The IOUs are *not* charged with procuring resources for *all* load in California and have traditionally forecast CGDL as part of their procurement planning processes. There simply is no basis now for the Commission to authorize a Procurement NBC in connection with IOU procurement in the normal course of business.

³ 2005 IEPR, pp. E-3 – E-4.

⁴ EAP II, pp. 7-8 (September 21, 2005).

CCDC encourages the Commission to grant EPUC's Petition and (1) confirm the IOUs' obligation to forecast CGDL when procuring power, and (2) rule that CGDL is not subject to a Procurement NBC.

DATED: January 22, 2007

DAY CARTER & MURPHY LLP

By: /s/ Ann L. Trowbridge

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the **RESPONSE OF THE CALIFORNIA CLEAN DG COALITION TO PETITION FOR MODIFICATION OF D.04-12-048 OF THE ENERGY PRODUCERS AND USERS COALITION** on January 22, 2007, on all known parties to proceeding R.04-04-003 via electronic mail to those whose addresses are available and via U.S. mail to those who do not have an electronic address.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this 22nd day of January, 2007, at Sacramento, California.

/s/ Christine J. Lambos
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